

SENATE BILL 2122

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 9,
Chapter 4, relative to the local government
investment pool.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-4-701, is amended by deleting the section and substituting instead the following:

The purpose of this part is to enable local governments in this state to participate in a pooled investment fund for the investment of idle public funds. For purposes of this part, the local governments that can participate in the fund are those entities listed in § 9-1-107(b). The general assembly finds and declares that the public interest is satisfied through a pooled investment fund for idle public funds, thereby reducing the need for imposing additional taxes. Each local government participating in the pooled investment fund is deemed a participant.

SECTION 2. Tennessee Code Annotated, Section 9-4-702, is amended by deleting the section and substituting instead the following:

The local government investment pool in existence as of the effective date of this act, remains in full force and effect if and until the state funding board terminates the fund pursuant to this part, and is subject to the provisions of this part. The funds invested in the local government investment pool must be in the custody of the state treasurer or the agents of the state treasurer for investment, reinvestment, and the administration of the fund.

SECTION 3. Tennessee Code Annotated, Sections 9-4-703, is amended by deleting the section and substituting instead the following:

The state funding board may:

(1) Establish and reestablish a local government investment pool that is subject to § 9-4-602, consisting of the aggregate of all participating local government funds placed in the custody of the state treasurer, subsequent to the termination of the fund;

(2) Separate the local government investment pool from the state pooled investment fund created under § 9-4-603;

(3) Suspend accepting deposits into the fund from all participants;

(4) Suspend accepting deposits into the fund from some participants on a share or share class basis;

(5) Terminate some of the accounts in the fund on a share or share class basis;

(6) Terminate the fund in the event that the fund is financially infeasible or is not beneficial to the local governments or the state itself. Before termination can occur, the local government investment pool must be separated from the state pool investment fund, such that two (2) separate funds are established for investment, accounting, and administration purposes. The state funding board shall determine the timing of the fund separation, termination, and wind down, which must be based, in part, on market forces;

(7) Liquidate some or all participant accounts upon a partial or total fund suspension or termination by returning some or all funds to participants;

(8) Establish limits, restrictions, or conditions on the acceptance of moneys into and the withdrawal of moneys from the fund, including, but not limited to, a minimum contribution amount or a maximum withdrawal amount;

(9) Determine whether the local government investment pool funds must be commingled, for investment purposes, with the funds held in the pooled investment fund created under § 9-4-603, or maintained separately subject to §§ 9-4-602 and 9-4-603. The commingling of the funds in the local government investment pool with the funds in the pooled investment fund for investment purposes must not prohibit the funds from being established as two (2) separate funds and accounted for separately with accurate and detailed accounting records;

(10) Determine the valuation method applied to the fund, which may include, but need not be limited to, stable value or floating net asset value;

(11) Delegate the day-to-day administration of the local government investment pool to the state treasurer; and

(12) Serve in an advisory capacity to the state treasurer in all matters pertaining to the local government investment pool.

SECTION 4. Tennessee Code Annotated, Section 9-4-704, is amended by deleting the section and substituting instead the following:

The state treasurer may:

(1) Implement and administer the local government investment pool, including, but not limited to, effectuating the decisions of the state funding board and any delegated duties;

(2) Approve each participant's application and agreement to participate in the local government investment pool;

(3) Contract with accountants, attorneys, auditors, investment advisors, or other finance and investment professionals to make investments or provide for the public accounting, auditing, and legal compliance necessary for performance

reporting, and the proper administration of the local government investment pool. Attorneys must be employed with the approval of the attorney general and reporter;

(4) Invest and reinvest the funds placed in the state treasurer's custody;

(5) Establish shares, accounts, and subaccounts; different classes of shares; and restricted accounts within the fund. The establishment of separate shares or classes of shares must only occur in the local government investment pool once it is separated from the state pool investment fund, such that two (2) separate funds are established for investment, accounting, and administration purposes;

(6) Receive, invest, and distribute a pool participant's funds by means of an electronic transfer or other reasonable methods;

(7) Open accounts as are permitted by the federal reserve for the safekeeping and other servicing of securities of local governments, and to enter into agreements with local governments to provide for such services;

(8) Maintain accurate and detailed accounting records for each participating local government's funds;

(9) Deduct a reasonable charge from each participant's account balance or balances which must be deposited and expended through the revolving account established in § 9-4-603(g);

(10) Provide a monthly report to each fund participant;

(11) Develop policies, procedures, guidelines, notices, or disclosures for the effective administration of the fund; and

(12) Facilitate local government investment pool participation by:

(A) Explaining investments in the local government investment pool to local governments through publication and other appropriate means;

(B) Educating local governments about the state's experience in investing short-term funds; and

(C) Providing technical assistance in investment of idle funds in the local government investment pool to local governments that request such assistance.

SECTION 5. Tennessee Code Annotated, Section 9-4-705, is amended by deleting the section and substituting instead the following:

(a) A local government desiring to participate in the local government investment pool shall submit an application and agreement on a form prescribed by the state treasurer with a resolution passed by the local government's governing body demonstrating approval to participate in the fund. Pursuant to § 9-1-107(b), the governing body of the local government may delegate revocable investment authority to the financial officer charged with custody of the funds of the local government, who shall thereafter assume full responsibility for transactions with the local government investment pool.

(b) Once the application and agreement are approved by the state treasurer, the local government may transfer money to the state treasurer to invest in the local government investment pool and purchase shares in the fund on behalf of the local government.

(c) Money transferred by each participating local government to the local government investment pool for investment as an investment or principal payment must be done electronically. Such local governments shall also electronically file any report or

other document with which such electronically transferred payment is associated or on which credit for the payment electronically transferred is taken. In extenuating circumstances, the state treasurer may waive the requirements of this section with respect to any local government. To obtain a waiver, the local government shall demonstrate in writing to the state treasurer that such extenuating circumstances exist.

(d) At any time, and subject to the limits, conditions, or restrictions imposed by the state funding board, a participant in the fund may request the return of its principal investment or investment income or both; however, a redemption of shares does not guarantee that a participant will receive the entire amount of the principal investment or investment income or both.

SECTION 6. Tennessee Code Annotated, Section 9-4-706, is amended by deleting the section and substituting instead the following:

(a) All investments purchased in the fund belong jointly to the fund participants and the participants must share capital gains, income, and losses on a pro rata basis.

(b) In the event that the local government investment pool experiences a negative interest rate, it may result in a loss to pool participants, and may result in the loss of principal. The state treasurer may deduct the negative earnings from each participant's local government investment pool account as a right of setoff.

(c) The reasonable charge that is deducted from each participant's account balance or balances that is deposited in the revolving account may be expended for the following purposes, including, but not limited to, payment:

(1) In whole or in part, of any loss experienced by pool participants or a pool participant to be distributed on a pro rata basis;

(2) In whole or in part, of the state treasurer's administrative fee for the operation of the local government investment pool;

(3) In whole or in part, of any expenses, losses, shortfalls, deficits, or deficiencies resulting from operational, accounting, or administrative errors;

(4) Of the expenses for the administration of the local government investment pool, including, but not limited to, the procurement and implementation of electronic systems and functionality; and

(5) Of any other expenses necessary and appropriate as determined by the state treasurer.

SECTION 7. Tennessee Code Annotated, Section 9-4-707, is amended by deleting the section.

SECTION 8. This act takes effect upon becoming a law, the public welfare requiring it.